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NEW APPLICATION



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BEFORE THE ARIZONA CORPORATION COMMISSION

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APPLICATION OF ESCHELON TELECOM OF ARIZONA, INC. FOR AN ORDER RESCINDING ITS BOND REQUIREMENT.

DOCKET NO. T-03406A-14-0081

APPLICATION TO RESCIND BOND REQUIREMENT

Eschelon Telecom of Arizona, Inc. dba Integra Telecom ("Eschelon-AZ") requests rescission of the \$235,000 bond requirement ordered in Decision No. 67674 (March 9, 2005), and return of the bond to Eschelon-AZ. In support of its application, Eschelon-AZ provides the following information:

1. Eschelon-AZ provides local exchange and other intrastate communications services to small- and medium-sized businesses as well as enterprise businesses in Arizona. Its local business address is 3540 Baseline Rd., Suite 150, Phoenix, Arizona 85042. Currently, Eschelon-AZ has approximately 2,000 non-residential customers. Eschelon-AZ, along with Mountain Telecom, Inc. dba Integra Telecom, and Electric Lightwave, LLC. dba Integra Telecom, has approximately 126 employees in Arizona and has installed or taken ownership of over 350 route miles of network infrastructure in Arizona. Eschelon-AZ currently only requires customer deposits from customers whose credit-worthiness is unproven. Eschelon-AZ currently has approximately \$1,000 in customer deposits.

2. Eschelon-AZ's immediate parent is Eschelon Telecom, Inc. ("Eschelon") and its ultimate parent is Integra Telecom Parent, Inc. ("Integra"). Integra is an Delaware corporation headquartered at 1201 N.E. Lloyd Blvd., Ste. 500, in Portland, Oregon 97232-1259. Its operating subsidiaries, including Eschelon-AZ, provide local and long-distance telephone service and high-speed internet to small- and medium-sized businesses as well as enterprise businesses in 11

1 western states. Integra has invested substantial capital in building and operating a facilities-based,
2 proprietary operating network that includes numerous metropolitan area fiber networks across
3 several states including Arizona.

4 3. Eschelon-AZ was awarded a certificate of convenience and necessity to provide
5 competitive resold and facilities-based local exchange, exchange access, and interexchange
6 telecommunications services in Decision No. 62751 (July 25, 2000). As a condition of approval,
7 the Commission required Eschelon-AZ to procure a performance bond equal to the minimum of
8 120 days intrastate revenue as well as any prepayments or deposits collected from its customers.
9 The Commission had originally stated in Decision No. 62751 that Eschelon-AZ could be relieved
10 of this obligation by providing information demonstrating its financial viability.

11 4. In Decision No. 67674 (March 9, 2005), the Commission modified the performance
12 bond requirement for Eschelon-AZ to \$235,000. The Commission further ordered that the bond
13 should increase by \$117,500 if the total of advances, deposits and/or prepayments is within
14 \$11,500 of the bond amount. At the time, the bond requirement was still viewed as necessary to
15 protect Arizona consumers given the uncertainty regarding the financial strength and viability of
16 new telecommunications carriers seeking to enter into the Arizona market.

17 5. In Decision No. 69707 (July 18, 2007), the Commission approved Integra acquiring
18 control of Eschelon (and its subsidiaries including Eschelon-AZ) in accordance with the affiliate
19 interest rules (A.A.C. R14-2-801 et. seq.) and Arizona law. This made Integra the ultimate parent
20 of Eschelon-AZ, with Eschelon remaining the immediate parent. The \$235,000 performance bond
21 remained intact.

22 6. Eschelon-AZ has complied with all Commission requirements, including filing
23 annual reports, funding Arizona universal service, and seeking approval of certain transactions
24 when required. Eschelon-AZ has complied with all applicable Commission rules, regulations and
25 orders. There are currently no formal complaints against Eschelon-AZ, and any prior formal or
26 informal complaints have been resolved.

27 7. The Commission recently, in appropriate circumstances, has not required a

1 performance bond or has been relieving CLECs of the performance bond requirement. Eschelon-
2 AZ believes that maintaining a performance bond in the amount of \$235,000 is no longer
3 necessary for Eschelon-AZ. For almost 14 years, Eschelon-AZ has proven its financial, technical
4 and managerial ability to provide services in Arizona. It has substantial investment in Arizona.
5 Eschelon-AZ collects deposits only under its Commission-approved tariff. Deposits do not exceed
6 two months' estimated charges and interest is paid on the deposits. In addition, Eschelon-AZ does
7 not have any prepayment or advance payment policies. Rescinding the performance bond will not
8 alter rates, terms or conditions of service to Eschelon-AZ customers and will not adversely impact
9 service.

10 8. Removing the bond requirement also would put Eschelon-AZ on equal footing with
11 other CLECs currently operating in Arizona, as well as incumbent service providers such as Qwest
12 Corporation, Inc. dba CenturyLink.

13 9. The Commission's Competitive Telecommunications Services Rules – A.A.C. 14-
14 2-1101 through 14-2-1115, which apply to Eschelon-AZ, do not require that Eschelon-AZ
15 maintain a performance bond as a condition of providing service in Arizona. Specifically, A.A.C.
16 R14-2-1105(D) states that the Commission "may require, as a precondition to certification, the
17 procurement of a performance bond sufficient to cover any advances or deposits the
18 telecommunications company may collect from its customers, or order that such advances or
19 deposits be held in escrow or trust." In other words, the Commission has the authority and the
20 discretion to determine whether a performance bond is still appropriate for Eschelon-AZ. Because
21 of the circumstances described in the previous paragraphs, Eschelon-AZ believes the \$235,000
22 performance bond requirement should now be rescinded.

23 10. Upon cancellation of its bond requirement, Eschelon-AZ requests that the
24 Commission return the Eschelon-AZ bond in the Commission's possession to:

25
26 Hanh Tran
27 Integra, Director of Risk Management
1201 NE Lloyd Blvd., Suite 500
Portland, OR 97232

1 WHEREFORE, Integra, on behalf of Eschelon-AZ, respectfully requests that the
2 Commission rescind the \$235,000 performance bond requirement for the reasons set forth in this
3 filing.

4
5 RESPECTFULLY SUBMITTED this 7th day of March, 2014.

6 **ROSHKA DEWULF & PATTEN, PLC**

7
8 By



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15 Attorneys for Eschelon Telecom of Arizona, Inc.

16 **ORIGINAL and 13 COPIES**
17 filed this 7th day of
18 March 2014 with:

19 Docket Control
20 ARIZONA CORPORATION COMMISSION
21 1200 West Washington Street
22 Phoenix, Arizona 85007

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24
25
26
27
By

